

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

FILED BY CLERK

APR 30 2007

COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,)	
)	
Respondent,)	2 CA-CR 2007-0006-PR
)	DEPARTMENT A
v.)	
)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
RONALD LESLIE MURRAY,)	Rule 111, Rules of
)	the Supreme Court
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF COCHISE COUNTY

Cause No. CR890000193

Honorable Stephen M. Desens, Judge

REVIEW GRANTED; RELIEF DENIED

Ronald Leslie Murray

Florence
In Propria Persona

V Á S Q U E Z, Judge.

¶1 In 1989, petitioner Ronald Murray was convicted by a jury of one count each of kidnapping, sexual assault, and robbery and two counts of theft by control. The trial court sentenced Murray to an aggravated prison term of twenty-one years for sexual assault, to be served concurrently with aggravated terms of eight years for the robbery and fifteen years each for the theft counts, to be followed by an aggravated, twenty-one-year term for

kidnapping. After filing an appeal in which he was partially successful¹ and no less than six petitions for review of the trial court's denials of post-conviction relief, Murray filed a subsequent petition for post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P., 17 A.R.S.² The trial court dismissed Murray's pro se petition, after which he filed this petition for review. We review the grant or denial of a petition for post-conviction relief only for an abuse of discretion. *State v. Schrock*, 149 Ariz. 433, 441, 719 P.2d 1049, 1057 (1986). We find no abuse here.

¶2 Murray contends he is entitled to be resentenced based on amendments to A.R.S. §§ 13-701 and 13-702, essentially arguing that *Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531 (2004), and *Apprendi v. New Jersey*, 530 U.S. 466, 120 S. Ct. 2348 (2000), apply retroactively to him. He attempts to avoid preclusion of his claims by asserting his petition is based on a significant change in the law pursuant to Rule 32.1(g). *See* Ariz. R. Crim. P. 32.2(b). In its response to the petition, the state argued that Murray's claim was precluded, and the trial court correctly agreed. *Blakely* does not apply to Murray's sentences because they were imposed and his case was final many years before *Blakely* was decided. *See State v. Febles*, 210 Ariz. 589, ¶ 7, 115 P.3d 629, 632 (App.

¹The Supreme Court of Arizona vacated that portion of our decision dealing with parole eligibility under *State v. Tarango*, 185 Ariz. 208, 914 P.2d 1300 (1996). *State v. Murray*, 194 Ariz. 373, ¶ 10, 982 P.2d 1287, 1289 (1999).

²Although this petition for review relates to the petition for post-conviction relief filed on November 15, 2006, Murray apparently has since filed two additional petitions for post-conviction relief, both of which are included in the record on review but are not the subject of this petition for review.

2005). Similarly, *Apprendi* is not retroactively applicable to cases like Murray's that were final when it was decided. *See State v. Sepulveda*, 201 Ariz. 158, ¶ 4, 32 P.3d 1085, 1086 (App. 2001).

¶3 Because we conclude the trial court correctly found Murray's claim precluded, we grant the petition for review, but deny relief.

GARYE L. VÁSQUEZ, Judge

CONCURRING:

JOHN PELANDER, Chief Judge

JOSEPH W. HOWARD, Presiding Judge